IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION No. 19719 of 2005**

Between:

M. Mallesham

**..... PETITIONER**

AND

The Prohibition and Excise Superintendent

Nalgonda District, Nalgonda.

**.....RESPONDENT**

**ORDER:**

Seeking a Mandamus, declaring the order of the respondent passed in CR No.1154 of 2005-C, dated 25.08.2005 in suspending the license of the petitioner, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the Government Pleader for Prohibition and Excise.

The learned counsel for the petitioner contended that before issuing the impugned order, no notice or any opportunity was given to the petitioner to make his representation, and therefore, the impugned order is contrary to Section 31 of the A.P.Excise Act, and further he relied on a decision in ***Sree Devi Wines v. Dy.Commr.of Excise, Kakinada & Ors..*** On the other hand, the learned Government pleader for Prohibition and Excise opposed the same.

As seen from the impugned proceedings dated 25.08.2005, no notice was given to the petitioner before suspending his license. In similar circumstances, this Court in ***Sree Devi Wines v. Dy.Commr.of Excise, Kakinada & Ors.*** **c**ase held that "*If the impugned suspension order is to be viewed as a final order of suspension, it is undoubtedly bad for violating the statutory requirement of opportunity under the proviso to Sub-section (1) of Section 31 of the Act".*

Following the said judgment, the impugned proceedings are quashed. This order will not preclude the respondent in taking appropriate decision against the petitioner, in accordance with law, by giving show cause notice and opportunity to the petitioner under Section 31 (1) of the Act.

With the above observations, the Writ Petition is allowed. No order as to costs.

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**K.C. BHANU,J**

Dated: 06.09.2005

Dsr

**Note:**

**Issue wire at party's costs**

**B/o**

**Dsr**